REMARKS

The Office Action of December 23, 2010 has been carefully considered. Reconsideration of this application, as amended, is respectfully requested.

As the Examiner correctly noted, the application was previously appealed and at the decision of the Pre-Appeal conferees the prior rejection was withdrawn. Claims 1 – 20 remain pending.

Clarification of Record

The Office Action of Dec. 23, 2010 ("Office Action") properly indicated at p. 2 that "[t]his action is in response to the Pre-Appeal Brief Request for Review filed August 26, 2010. A Pre-Appeal Brief conference was held and the rejection was withdrawn." Apparently, in error, the Examiner subsequently states in the "Response to Arguments" section of the Office Action (beginning at p. 20 of the Office Action), that "Applicant's arguments filed August 31, 2010 have been fully considered but are not persuasive." Applicants respectfully note that no response was filed on August 31, 2010, and that as indicated at p. 2, the arguments submitted with the Pre-Appeal Brief Request resulted in the new rejections set forth in the current Office Action.

Summary of Office Action

Turning now, to the office action, claims 1-3, 7 and 17 were newly rejected on the ground of nonstatutory, obviousness-type double patenting as being unpatentable over claims 1-3, 14 and 15 of U.S. Patent No. 7,707,153 B1 in view of Yankovich et al. (US 2003/0110443; "Yankovich"). Claims 1-4, 6, 7, 9, 10, and 16-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Raveis, Jr. (US 2001/0005829A1; "Raveis"); in view of Yankovich. Claims 5, 8 and 11 were rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and further in view of Sorvari et al., (US 2004/0043758; "Sorvari"). Claim 12 was rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and Sarvari [sic], and further in view of Horn et al. (US 2002/0156688; "Horn"). Claims 13-15 were rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and further in view of Horn.

Double Patenting Rejection Traversed

Claims 1-3, 7 and 17 were newly rejected on the ground of nonstatutory, obviousness-type double patenting as being unpatentable over claims 1-3, 14 and 15 of U.S. Patent No. 7,707,153 B1 in view of Yankovich. This rejection is respectfully traversed.

First, Applicants respectfully submit that there is ambiguity in the double patenting rejection such that Applicants cannot clearly understand nor adequately reply to the rejection. As set forth at p. 3 of the Office Action, the rejection is allegedly based upon US 7,707,153 in view of Yankovich. However, in the detailed rejection, at the top of p. 4 the Examiner states that "It would have been obvious to combine the to combine [sic] the system and method of Raveis with the electronic form system of Yankovich with [sic] because it would provide an efficient process for self-directed routable electronic forms." To the extent Applicants can understand this rejection it appears that it relies upon Raveis, which was not identified in the basis for the rejection. Thus, it is uncertain whether the rejection based upon nonstatutory obviousness-type double patenting relies upon Raveis and Yankovich. For this reason alone the rejection is, at best incomplete and should be withdrawn or restated (if restated, permitting Applicants to reply thereto).

Furthermore, the basis for the rejection, as set forth at the top of p. 4 of the Office Action goes on to state that "it is old and well known that traditionally, software applications and architectures that accommodate the form flow of electronic forms use server-side programs to determine the processing, or routing, of a given form." The statement leads Applicants to question whether the Examiner is further relying upon some form of Official Notice to support the double patenting rejection. If so, Applicants respectfully request that the Official Notice has not been properly characterized. And, Applicants respectfully request that the Examiner provide support for the allegedly well-known teachings at a time prior to the filing of the instant application. Absent such evidence, the rejection appears to improperly rely upon official notice.

Second, the basis for the rejection has not been properly established. Applicants understand the Examiner to have the burden to set forth a complete rejection and to set forth the answers to the following factual inquiries: (a) the scope and content of a patent claim relative to a claim in the application at issue; (b) the differences between

the scope and content of the patent claim as determined above, and the claim in the application at issue; (c) the level of ordinary skill in the pertinent art; and (d) any objective indicia of nonobviousness. Applicants respectfully submit that the rejection fails to indicate which claims are alleged to claim common subject matter, let alone a comparison of the scope and content of such claims. Moreover, the rejection incorrectly sets forth the scope of all the independent claims, as it generally deals with claim 1 and fails to even acknowledge that the scope of independent claims 1, 7 and 17 is even different. And, the rejection appears to improperly rely upon the teachings of the 7,707,153 as the rejection states that the subject matter claims in the instant application "is fully disclosed in patent 7,707,153B1 and is covered by patent 7,707,153B1 ..."

Lastly, relative to claim 1 at least, the rejection mischaracterizes the claim limitations. The last limitation requires that the web-based user interface is dynamically controlled as a function of the at least one attribute in the second table. Applicants respectfully contend that neither Raveis nor Yankovich, alone or in combination teach "a **second table defining at least one attribute of a display of information** associated with said property transaction; and a **web-based user interface** providing access to said database, **wherein said user interface is dynamically controlled as a function of the at least one attribute defined in the second table**. (Claim 1 of instant application) Absent such teachings, or proper rejection to which Applicants can respond, the rejection is respectfully traversed. Withdrawal of the rejection is respectfully requested. In the double patenting rejection is maintained in a revised format, Applicants respectfully request an opportunity to further respond to such a rejection as of right.

Obviousness Rejections Traversed

Claims 1-4, 6, 7, 9, 10, and 16-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Raveis in view of Yankovich. This rejection is respectfully traversed for at least the reasons set forth below.

As an initial matter, Applicants respectfully urge that the rejection of independent claim 17 is, on its face incomplete and that *prima facie* obviousness has not been established to which Applicants can or must respond. The rejection of independent claim 17 fails to acknowledge that claim 17 is independent and refers to "all of the above limitations." No such limitations were discussed for the "method for

dynamically creating a user interface for managing work-flow..." and as such Applicants are unable to identify what the Examiner relies upon in reference to the "above limitations." In the event that a rejection of claim 17 is subsequently alleged based upon a combination of Raveis and Yankovich, Applicants respectfully request that the rejection be set forth with specificity by the Examiner, and that an opportunity to further respond be afforded Applicants.

Applicants respectfully urge, as noted above relative to the double patenting rejection, that the Examiner appears to be improperly relying upon "Official Notice" as a secondary basis to support the alleged combination and/or rejections. For Example, at several points in the Office Action the Examiner states, without support, that "it is old and well known that traditionally, software applications and architectures that accommodate the form flow of electronic forms use server-side programs to determine the processing, or routing, of a given form." In the event the Examiner relies upon such a statement as the basis for any rejection, or a combination in support of a rejection, the Examiner is requested to clearly characterize the assertion as "Official Notice" and to provide support for the allegedly well-known information. And, Applicants respectfully contend that such a statement, even if true, fails to result in a teaching of a database including a table having embedded rules or defining an attribute of a display as set forth in the independent claims.

As for the suggestion that the missing limitations are somehow non-functional descriptive language, Applicants respectfully disagree with that unsupported conclusion as well. Applicants are unable to understand exactly what the Examiner refers to as "the contents of the database" (e.g., Office Action, p. 7) as such a term is not believed to have been used in the claims. Contrary to the Examiner's apparent assertion, the embedded rules in the first table are indicated as defining a work-flow for the property transaction and the second table defines at least one attribute of a display of information associated with the property transaction, such that a web-based user interface is dynamically controlled as a function of the at least one attribute. It is uncertain just what the Examiner is suggesting as being non-functional if indeed the embedded rules and display attributes are what is being referred to as contents. In the event the Examiner's conclusion as to non-functional subject matter is intended to form a basis for the rejection, Applicants respectfully request that it be expressly identified as such in the rejection and that the rejection clearly set forth that portion of the claims that is not being given patentable weight.

Next, Applicants respectfully challenge the merits for combining Raveis and Yankovich. For example, as a basis for the combinations the Examiner has asserted the combination, for example, because: "it would provide an efficient process for self-directed routable electronic forms" (Office Action, p. 7); "[i]t provides an efficient means for electronically displaying forms containing user provided information over a server network" (Office Action, p. 16); or "it would provide an efficient process for providing buyers adequate information to make buying decisions via product categories and self-directed routable electronic forms." (Office Action, p. 20) Applicants respectfully submit that the Examiner has, once again, failed to show how or why the alleged bases for the combination would have been obvious to one of ordinary skill in the art. Absent any support for the alleged bases asserted, at most they are merely conjecture set forth by the Examiner in a post-invention reconstruction of the claims and fail to even consider what one of ordinary skill in the art would have been motivated to do. For at least these reasons, the combination is respectfully urged as improper and withdrawal of the rejection is requested.

Even if the arguable combination is considered, the rejection fails to establish a teaching of each of the recited limitations set forth in the independent claims (e.g., 1, 7 and 17). As now acknowledged by the Examiner, Raveis does not teach a database having a first table with embedded rules that define a workflow or a second table defining at least one attribute of a display of information as recited in rejected claims 1 and 7.[1] Nor does Raveis describe following a work-flow for a transaction defined by at least embedded rules in a first database table, providing access to the database for the plurality of users, via a user interface, and dynamically controlling the user interface as a function of data stored in the second table as set forth in claim 17.

Applicants respectfully contend that Yankovich, either alone or in combination with Raveis, also fails to teach the missing limitations in claims 1, 7 or 17. For example, the claims clearly recite a table in the database having embedded rules. Yankovich fails to disclose a database table having embedded rules. And, absent such disclosure cannot also teach that the embedded rules define a work flow for the property transaction. Similarly, while Yankovich does disclose an E-form, it is not

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[1] As noted previously, the detailed rejection of claim 17 fails to clearly indicate what the rejection is based upon and as such there is no clear indication that the rejection contemplates the factors of obviousness as set forth by Graham v. Deere.

clear that the E-form operates without a programmatic element as reference is made to submission of the E-form to server side application that "allows implementation of an electronic form flow, or routing of the E-form." (Para 0041) It appears that the rejection improperly relies upon Yankovich's teaching of the form creation, which appears to include pre-existing programmatic control (Acrobat, Adobe Form Tool, etc.) for creation. (see Para 0036) Moreover, the Examiner's reliance upon a rules engine, rules modules and security components all further suggest that there is some programmatic control and are collectively urged as teaching away from the claimed invention where it is the rules embedded within a table of the database that define a workflow and dynamically control the user interface. Absent specific teaching the alleged obviousness has not been set forth with specificity to as to establish *prima facie* obviousness. The rejection is, therefore, traversed with respect to claims 1, 7 and 17, and withdrawal of the rejection relative to the independent claims is requested. In the event that the rejection is not withdrawn, Applicants respectfully request the Examiner identify where the specific limitations alleged to be taught by Yankovich have been set forth.

With respect to dependent claims 2- 4, 6, 9, 10, 16 and 18-20, these claims are dependent upon the independent claims and are urged to be allowable for the reasons set forth above relative to the independent claims. For purposes of brevity, Applicants have not set forth specific arguments relative to the dependent claims, but reserve the right to separately argue each dependent claim in a subsequent response or on Appeal.

Claims 5, 8 and 11 were rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and further in view of Sorvari. This rejection is respectfully traversed.

Applicants respectfully submit the distinctions noted above relative to independent claims 1 and 7 from which the rejected claims depend. Yankovich is further urged by the Examiner as teaching a web-based user interface generated in response to software operating on a server on the network (referring to Para 27). Applicants do not understand the teaching of Yankovich to suggest such an interpretation. Nor do Applicants believe that Raveis, Yankovich, or Sorvari, alone or in combination, teach generating a web-based interface in response to software operating on a server on the network, by taking the data in the second table and generating an XML result set

and an XSL translation sheet, where software operating on a user computer loads the XSL translation sheet and processes the XML result set to produce browser interpretable HTML code to display the interface at the user computer. Accordingly, claims 5 and 8 are believed to be patentably distinguishable over the alleged combination for this reason as well. Withdrawal of the rejection in relation to claims 5 and 8 is respectfully requested.

With respect to dependent claim 11, this claim is dependent upon claim 8 and is urged to be allowable for the reasons set forth above relative to claim 8. Furthermore, the recited paragraph of Yankovich (Para. 60) is not understood to teach that "the record-set includes information about the data source of a field of the user interface." In the event the rejection is maintained, Applicants request that the Examiner identify where the recited limitation is expressly taught by Yankovich (or Raveis or Sorvari). Otherwise, withdrawal of the rejection is respectfully requested.

Claim 12 was rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and Sarvari [sic], and further in view of Horn. This rejection is also respectfully traversed.

Relative to the rejection of claim 12, Applicants respectfully submit that, as noted above, the basis for the alleged combination has not been established so as to support *prima facie* obviousness. Other than a reliance upon Applicants' claims, there does not appear to be a basis for the proposed combination. In the event the rejection is maintained, Applicants respectfully request that support for the alleged "efficient universal method of organizing and displaying product categories..." (Office Action, p. 18) or how such efficiency would have been within the scope of what one of skill in the art would have understood at the time.

The Examiner has also indicated paragraphs 192, 366 and 644 of Horn as disclosing "the record-set [of claim 11] includes a stored procedure associated with the field." Applicants are unable to understand how the Stored Procedure (see Para 0282), as the term is used by Horn, or the teaching of a database table organized into fields and rows being selected by a stored procedure rises to the level of teaching of a "record-set includes a stored procedure associated with the field." Absent teaching of the claim limitations, the rejection is respectfully traversed and withdrawal of the rejection is requested.

Claims 13-15 were rejected under 35 USC §103(a) as being unpatentable over Raveis in view of Yankovich, and further in view of Horn. This rejection is also respectfully traversed.

As noted relative to claim 11 (similar arguments are applicable to claim 10 from which these claims depend), there is no disclosure of a record set with information about each field of the interface. Thus, there can be no teaching of an array as recited in claim 13, or of the record set including an object oriented structure as set forth in claim 14. As for claim 15, the recited limitation requires that the record set includes data to control the information displayed in response to data identifying a transaction file a user is seeking access to. Although the rejection urges that hidden fields described at Para. 215 somehow disclose such limitations, Applicants respectfully disagree and again urge that *prima facie* obviousness is not established. Withdrawal of the rejection of claims 13 – 15 is respectfully requested. In the event that any of the claims remain rejected, Applicants respectfully request that the Examiner show where the specific teaching of the claim limitations are set forth, or otherwise indicate how one of ordinary skill in the art would have arrived at an interpretation consistent with the recited claim limitations.

In view of the foregoing remarks, reconsideration of this application and allowance thereof are earnestly solicited. In the event that additional fees are required as a result of this response, including fees for extensions of time, such fees should be charged to USPTO Deposit Account No. 50-2737 for Basch & Nickerson LLP.

In the event the Examiner considers personal contact advantageous to the timely disposition of this case, the Examiner is hereby authorized to call Applicant's attorney, Duane C. Basch, at Telephone Number (585) 899-3970, Penfield, New York.

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